

REMARKS/ARGUMENTS

Reconsideration and allowance of this application is respectfully requested. Claims 1, 15, 21, 30, 31, 32, 33, 35, 50-52 and 54-59 have been amended above so as to give greater emphasis to some novel and patentable features of these claims.

The rejection of claims 1-17, 21, 30-35 and 50-60 under 35 U.S.C. § 103(a) as allegedly being made "obvious" by the article "Bid For Surgery" from Medicine Online Publications (hereinafter MOL article) in view of DiRienzo (USP 6,006,191) is respectfully traversed.

Applicant respectfully disagrees that "the system taught by MOL is merely a reverse of the current application." Even if the MOL system could be modified arguendo (in hindsight) to "reverse the auction format" as contended in the office action, applicant's claims set forth features that are neither disclosed nor suggested by the MOL system, even a so modified MOL systems.

As previously pointed out in applicant's 17 November 2004 amendment, at least one novel and patentable feature of independent claim 1 is believed to be verification of a service provider's qualifications for providing the services that are to be posted. As presently further amended, independent claim 1 now even more distinctly requires "registering a medical service provider and automatically authenticating qualifications of said medical service provider to perform a proffered medical service upon obtaining registration information from said provider."

Applicant respectfully notes that neither the MOL article nor the DiRienzo '191 patent, considered either alone or together, disclose or suggest a computerized method for arranging

delivery of medical services that *automatically authenticating a service provider's qualifications* for providing a proffered service prior to posting that service online, as now set forth by claim 1. The DiRienzo (the '191 patent) does not address the issue of service provider qualification verification at all and the MOL article merely states that "...The physicians may respond, within a specified time frame, by posting their credentials and professional fees." (MOL article at page 1, paragraph 1.) There is no suggestion of independent verification or authentication of a provider's credentials in either reference. Moreover, neither reference teaches or suggests an online computerized method wherein such verification is automatically performed. In addition, neither the MOL article nor DiRienzo teach or suggest registering a medical service provider, as also set forth by applicant's claim 1.

Independent claim 21 includes at least the novel and patentable feature of automatically accessing online one or more data sources to obtain information describing the health and/or financial condition of the prospective patient and forwarding that information along with the bid for services to associated service provider. As presently amended, independent claim 1 recites "in response to receiving an online bid, automatically accessing a maintained database and/or one or more online commercial data resources to obtain information describing the health and/or financial condition of a bid-submitting prospective patient;..."

Applicant respectfully notes that neither the MOL article nor the DiRienzo '191 patent, considered either alone or together, disclose or suggest automatically accessing a maintained database or an online commercial data resource to obtain health or financial condition of a prospective patient, as set forth in claim 21. Although, DiRienzo enables a diagnostic physician

to access the patient's medical image that is to be analyzed, he does not disclose automatic access of a patient's health or financial information. Likewise, the MOL article also fails to teach or suggest automatic access of such information but merely states that "they [individuals seeking services] will also be required to provide health and background information." (MOL article at page 1, paragraph 3.)

Similarly, independent claim 30, as presently amended, recites steps *performed by a computer* (i.e., not the prospective patient or online consumer) of "accessing one or more online commercial database sources containing medical certifications data and verifying the authenticity of qualifications of the medical service provider". Neither the MOL article nor the DiRienzo '191 patent, considered either alone or together, disclose or suggest such features.

With respect to independent claim 35, neither the MOL article nor the DiRienzo '191 patent, considered either alone or together, disclose or suggest the claimed features of: "establishing a computer-readable personal medical service provider identification code" or providing "a service provider qualifier database accessible by said computer." In addition, neither the MOL article nor the DiRienzo '191 patent disclose or suggest a computer programmed to "receive said medical service provider identification code from the medical service provider for verifying the identity of medical said service provider" and "authenticate the medical service provider's qualifications", as set forth in applicant's independent claim 35.

Independent claims 50 and 52 distinguish over the MOL article and the DiRienzo '191 patent at least in the aspect that these independent claims include posting online access to feedback information *from a medical service provider* about the *patient*. Moreover, neither the

MOL article nor the DiRienzo '191 patent, considered either alone or together, disclose or suggest collecting into a database feedback information obtained from a service provider regarding a patient's compliance with medical procedures and instructions during treatment or the resultant outcome of providing the proffered medical service to the patient, as respectively set forth in claims 50 and 52.

With respect to independent claims 54 and 56, applicant respectfully contends that these claims, as presently amended, are novel, unobvious and patentably distinct over the cited prior art references at least with respect to the claimed feature of "registering at least one medical service provider." In addition, neither the MOL article nor the DiRienzo '191 patent teach or suggest "collecting into a database...feedback information...made available online", as set forth by both claim 54 and 56.

With respect to independent claim 58, applicant respectfully disagrees with the asserted "official notice" that "modifying a bid price for a modified service is old and well known in the art" and the resulting conclusion that applicant's claimed method steps of "computing an adjusted bid price...based on a relative value multiplier...upon a conventional procedural CPT code Relative Value Scale" which only occurs "after a provider accepts a bid price...if a different or altered service is required" would be obvious to one of ordinary skill in the art.

There is no teaching or suggestion in the prior art of record to compute an adjusted bid price based on a relative value multiplier to a CPT code Relative Value Scale when it is determined, after bid price acceptance (for example, during the treatment of a patient), that a different or altered procedure or service must be performed. In this regard, Applicant

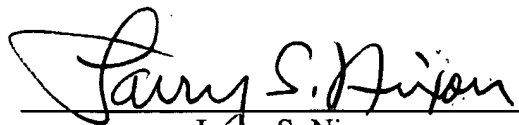
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respectfully requests that the Examiner formally document the asserted "official notice" allegations in accordance with standard MPEP provisions. The Office Action improperly relies on hindsight reconstruction of the claimed features based on the teachings of the instant application in reaching its obviousness determination. "To imbue one of ordinary skill in the art with knowledge of the invention, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." See *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1543, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Only in view of the teachings of the instant applicant could the above rejections possibly be maintained.

For at least reasons such as these stated above, applicant respectfully contends that this entire application is now in condition for allowance and a formal notice to that effect is respectfully solicited.

Respectfully submitted,

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